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**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

April 13, 1998

The Honorable George H. Bailey  
Member, House of Representatives  
308C Blatt Building  
Columbia, South Carolina 29211

RE: Informal Opinion

Dear Representative Bailey:

The opinion request of the Real Estate Subcommittee has been forwarded to me for reply. The subcommittee has asked for this Office's opinion regarding the legality of enacting legislation concerning the elimination of modular housing from a neighborhood zoned "R1" or "Single Family Dwelling." Specifically, the subcommittee is interested in whether or not the State of South Carolina has the authority to regulate such matters, or if these regulations should be left up to the local governments or municipalities under "Home Rule."

The particular legislation in question is H.4756. This Bill reads in pertinent part as follows:

Section 1. The 1976 Code is amended by adding:

"Section 23-43-135. A modular building unit may not be installed on property which has been zoned as 'R-1' or 'single-family dwelling' by a local government pursuant to the provisions of Chapter 27, Title 4, Chapter 23, Title 5 or Chapter 29, Title 6."

Under Home Rule, the General Assembly is charged with passing general laws regarding the powers of local government. Town of Hilton Head Island v. Morris, 324 S.C. 30, 484 S.E.2d 104 (1997); S.C. Const. Art. VIII, § 7 (counties) and § 9

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(municipalities). The authority of a local government is subject to the general laws passed by the General Assembly. Id.; S.C. Code Ann. § 4-9-30 (counties) and § 5-7-30 (municipalities). A general law is one that applies to the entire State and operates wherever the specified conduct takes place. Id.

On its face, H.4756 is a general law of statewide applicability. As previously stated, the General Assembly has the authority to pass general laws regarding the powers of local governments. H.4756 meets this description. Therefore, the Home Rule Act would not serve to limit the General Assembly's authority to pass such a law.

It should be noted that this opinion only addresses the legality of H.4756 in regards to the questions asked. This opinion should not be read as commenting on the policy behind the passage of H.4756 as such is obviously within the discretion of the General Assembly. —

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General